

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2757 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

-----

KISHORCHANDRA NAGINDAS GANDHI

Versus

GUJARAT PANCHAYAT SERVICE

-----

Appearance:

Shri BP Tanna for the Petitioner.

Shri HR Lathigara for Respondents No.1, 2, 3 & 4

None present for the Respondents

-----

CORAM : MR.JUSTICE S.K.KESHOTE

Date of Decision: 12/5/99

C.A.V. JUDGMENT

1. Heard learned counsel for the parties.

2. This petition has been admitted on 6.3.1990 and interim relief has also been granted in the terms as stated in the aforesaid order of this Court dated

6.3.1990 which reads as under.:

"Interim relief to the effect that the respondents shall prepare the list of candidates on the basis of the total marks of the written test and viva voce test and shall arrange the number according to the marks secured by the candidates. After preparing the list on merits as stated above and arranging the names according to merits, the respondents may, if they so desire, make the appointment of 63 candidates eligible for appointment. The appointments, if made, shall be subject to the result of this petition and the candidates who are appointed should be informed specifically in the appointment orders, if any, that the appointments are made subject to the result of this petition. In case the petition is decided against them, they will have no right to the concerned post."

3. The petitioner applied for the post of Gram Sevak. Rule 18 of the Gram Sevak (Panchayat Service) Recruitment (Examination) Rules, 1982, regulate the selection and the appointment on this post. Rules 15 and 18 of the Rules aforesaid read as under.:

"Rule 15 :

Result of Examination.- On receipts of the result of examination, Secretary of the Committee shall place it before the Committee who shall publish the same on the Notice Board. The minimum Standard of passing in the written examination shall be determined by the committee from time to time.

Rule 18 :

Committee to prepare selection list.- After the candidates have been interviewed a selection list which shall cover up the existing vacancies and future vacancies, as notified by the District Panchayat shall be prepared by the Committee in order of merit on the basis of the total number of marks secured in the written examination and oral interview. While preparing this selection list, the number of seats shall include the names of the candidates reserved for Scheduled Castes, Scheduled Tribes and Socially and Educationally backward class candidates. In doing so if as per reserved quota number of Scheduled Caste and

Scheduled Tribe candidates are not available sufficient for selection in the selection list, the committee may add to this list such candidates from amongst the Scheduled Castes and Scheduled Tribes candidates who have passed the written examination and oral interview as may be necessary even though on merit the candidate rank lower."

4. Cogent reading of Rules 15, 18 and 23 of the Rules aforesaid, I find that selection committee has nowhere been empowered to laid down criteria that the candidates who has obtained four or more than four marks in the oral interview shall only be selected in the selection. The requirement of obtaining minimum marks in oral interview can only be by rule and not by the decision of the members of the Selection Committee. Name of the petitioner was not found in the select list only on the ground that he has obtained less than four marks in the oral interview. However, in accordance with the merits to be prepared on the basis of the marks obtained in the written examination and the oral interview, certainly the petitioner's name would have been there in the select list to which there is no dispute.

5. This Court on 6.3.1990 has given the directions to the respondent to prepare the select list on the basis of the total marks of the written test and viva voce. Accordingly that list has been prepared and the petitioner found figured himself in the select list and what has been informed to the Court that he has also been given the appointment. It is true that appointments given are subject to the decision of this petition. Very criteria adopted by the selection committee for selecting the candidates in the selection is not in accordance with the rules and as such selection list has been prepared on that basis and the criteria both could not be allowed to stand. However, no further orders are required to be made as the select list has already been prepared on the basis of the criteria which is permissible in accordance with law pursuant to the order of this Court dated 6.3.1990.

6. This writ petition is disposed of with the directions that appointment given to the petitioner on the post of Gram Sevak is perfect, legal and justified though given pursuant to the order of this Court dated 6.3.1990. This Special Civil Application stands disposed of accordingly with no order as to costs.

(S.K.Keshote,J.)

(pathan)